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ABSTRACT

The analysis of in-depth interviews with 40 divorced women provides some insight into these women's experiences of the bargaining and negotiating process, both in the divorce and with child support and alimony payments after the divorce. One study has shown that the average woman's standard of living declines by 72 percent 1 year after divorce, while the average man's standard of living increases by 42 percent 1 year following divorce. Women appear to approach the legal bargaining process with a psychological disposition in which they are not abstracted emotionally from the bargaining process. This emotionality often results in the women's concession in financial arrangements, which will have severe consequences for their economic status after the divorce. The same process is apparent after divorce, because many women are hesitant to seek unpaid child support payments by using legal or state mechanisms for fear of disrupting harmony with their ex-husband or fear of physical violence. Thus, systems for collecting child support will be under-used by women if such systems rely on the woman's initiation of the process or on continued interactions between spouses. There is a need for an automatic collection process which is not dependent on individual initiation or on continued interaction between spouses. (NRE)

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Divorce and Downward Mobility for Women: Changing Conceptions of Self and Society

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Today I'm going to present a small excerpt of a study on the consequences of divorce and downward mobility for women. Because this research is based on an in-depth interview study, the material presented today is a sub-set of a much larger analysis based on these data.

The overall theme of my analysis is how a women's sense of self and her sense of her location within society changes as a consequence of divorce and downward mobility. My focus is on how this sense of self is constructed out of social interactions and comparisons with others, within specific situations. Experiences of family life, the court, social life, work and welfare provide settings for such social interactions and comparisons. This work is influenced by symbolic interactionist theories of how identity is constituted within interactions, as well as traditional social psychological theories of social evaluation and comparison, such as relative deprivation, status incongruity, and reference group theory. My research is influenced by a grounded theory approach (Glazer and Strauss, 1967), whereby theoretical concepts emerge from the data collected in an inductive process, rather than being deductively tested.

I conducted 40 in-depth interviews and then performed a qualitative content analysis of 600 pages of typed transcripts. The approach is necessarily interpretive, exploratory, and suggestive of future research. The sample consists of:
mostly white women, with 10% Hispanic;
the average age is 38;

average length of marriage is 11 years;
and average time since divorce is 3 years;
with an average of two children under 18.
The women are from all education levels, with the modal a high school graduate.
Half of the women are currently employed, all of whom work in "female occupations," such as clerical worker, medical assistant, or waitress.
Two-thirds of the sample is currently receiving or had received in the past some form of public assistance, such as AFDC, food stamps, unemployment.
Two-thirds are not receiving or receiving sporadically child support payments.

Today I want to concentrate on the portion of the analysis concerned with women's experiences of the bargaining and negotiating process, both in the divorce and with child support payments after the divorce. The outcome of the bargaining process marks the formalization of the divorce, and finalizes the financial arrangement between ex-spouses. Thus, if we look at divorce as a process, the legal process represents an extremely important interaction with a social institution, the law, that will determine, in part, her later financial status, as well as certify her new unmarried status. Also, women's interactions with institutions dealing with child support payments are of profound importance and debate today, particularly in the area of legislation designed to increase the collection of unpaid support payments.

This is an area in which I hope that my research will have relevant practical applications by suggesting ways to make child support payments a more viable source of support for women by changes in the present organization of child support procedures.

The bargaining and negotiating process within the divorce often constitutes the bulk of the legal divorce experience. Relatively few divorces, less than 10%, actually go to trial before a judge. It is within the bargaining process that decisions are made in 3 areas: the division of community property, child custody and visitation, and child and spousal support payments.

Most women state that their primary objective in these negotiations is to be fair, to be amicable. They explicitly state that they did not desire to "screw my ex," "wreck his life," "burn him," or "take him for all he was worth." These statements are clearly a response to the societal belief that women somehow can do these things or can profit financially in a divorce, which is contrary to the actual reality of how divorce affects most women economically in this country. A California study by Lenore Weitzman of Stanford University, showed that the average woman's standard of living declines by 72% one year after divorce; while the average man's standard of living increases by 42% one year following divorce. On the whole, these women present themselves as mostly concerned with being fair. This, of course, calls into question, what is fair and who defines it? I plan to do a comparative study looking at how divorced men perceive "fairness" in

their divorce settlements.

For many women, their desire for fairness seems thwarted or obstructed by the legal process itself. Women perceive the law as incapable of producing what they see as fair. This inability to deliver a fair outcome often results in a deep-seated alienation and a profound disrespect for the law and the legal process. This signals a significant change from prior beliefs and may constitute a woman's first conscious experience of personal injustice or discrimination. These women depict themselves as being "innocent," "naive," or "unprepared" for what was to come, and feel that they have been changed by this process.

Many women report finding the divorce bargaining process a form of interaction and communication that is alien. I am interested in how women fare within this process. How do they see themselves in comparison with their husbands, and how does their approach to bargaining affect the outcome of the process?

Within the negotiating/bargaining process itself many women interviewed report reaching a limit, an emotional barrier, beyond which they are no longer willing to engage in the process. They perceive that their pain threshold is lower than their husband's, which thus constitutes an advantage for him in the process. At times they are at odds with their attorney's or their friends' advice in their unwillingness to continue in a conflictual process. Instead they decide to settle for what is possible at that time, and thus cash in their bargaining chips. Two women

described their experiences this way:

> A lot of people counseled me. It's hard [for me] to get in there and be nasty. Some people do because it's their nature, but it's not mine and I didn't get in there with a desire to try to get everything I could. I wanted out of the pain more than anything else and people said, you've got to fight, but I didn't have the desire to fight in that respect, because I knew it would be ugly and I didn't want any more ugliness. So, I allowed things to go in situations.
>
> My problem was that, see I'm always hooked in emotionally, I can't avoid that. I have trouble avoiding that, whereas he's just cold, so he concentrated just fine.

Both of these women depict their emotionality as a handicap within the legal process. The second women makes a comparison with her husband, whom she perceives as advantaged because of his ability to extract his emotions from the process. This experience of being unable to extract oneself emotionally from the bargaining and negotiation process corresponds with Carol Gilligan's (1983) theory of gender and moral reasoning. Gilligan demonstrates that men approach moral issues on the basis of right versus wrong, using abstract principles such as justice and equality. Women, however, more often reason on the basis of relationships with others, focusing on interconnection and how one's behavior affects others, rather than on abstract separation.

Therefore, not only do women have less real experience in bargaining and negotiating around money and contracts, and marriage and divorce are both contractual agreements, but they may also have a different psychological approach to these issues, one

in which they may be less abstracted emotionally from the process. Within a legal context predicated on the "ethic of justice and rights" (Gilligan, 1983), their inability to extract their emotions from the bargaining process constitutes a disadvantage.

An offshoot of this apparent style of bargaining is a desire to maintain harmony between self and other. Women will often concede financial or custody arrangements in order to keep harmony or avoid threatening their husbands. Some women refuse spousal support in an attempt to placate their husbands in order to maintain harmony. One woman, now on AFDC, whose ex-husband now chooses to have no contact with their child and who has not paid ordered child support, describes her compliance in these negotiations:

> I said, "oh yeah, I don't want you to pay me alimony -- forget it. Joint custody -- ok, fine." I mean I had my doubts, but I figured, if he wanted it, fine. I figured it would be better not to start from a place of inequality. I didn't want to threaten him. I didn't want him to feel that I would be pulling Susan away from him.

Such a dynamic surfaces again after divorce, in dealing with child support payments.

Women continue to experience dependency on their ex-husbands after divorce in the form of spousal and child support payments. Yet, the low rate of payment of support payments is well known. Consequently, women who do receive their payments, invariably consider themselves lucky, which was expressed by almost every woman who did get some form of payment. This sense of luckiness

conveys a comparison level with other women who do not get their payments. Because of this comparison level, many women who do receive their child support payments not only feel lucky, but will accommodate to power dynamics which are a carryover from the marriage, and which express the ex-husband's power over this ex-wife and the ex-wife's dependency on his continued financial support. This dependency brings about a tremendous amount of accommodation on the ex-wife's part to these power dynamics. So, for instance, one woman says:

> Well, I guess I just accept that I'm not going to get it the 1st of the month. So, if I get it by the 15th, I'm lucky.

Another woman states:

> If my ex-husband doesn't pay for one reason or another, I'm stuck. I can't afford to take him to court. He wants me to come to him and ask him for it, which is the hardest thing to do. And he knows he's put me in a situation where that's exactly what I have to do.

Why do women accommodate to these type of power dynamics? Besides the obvious financial dependency, there are the real and possible threats from ex-husbands, threats of taking the children forcibly, and threats of physical violence. One woman describes this situation of threat and accommodation:

> Q: Did your first husband come through with the payments?
>
> A: Yes, pretty much. I've been real fortunate in that respect.
>
> Q: What about your second husband?

> A: Yes, he's real good. He plays games with it, but he eventually comes through. He forces me into situations where I have to go to him and ask for it, but he always gives it to me eventually. Like last month. He knows how tight my situation is. He keeps threatening to take me to court to take my daughter away from me on the basis that he can afford to take care of her and I can't, which isn't true, as far as I'm concerned, I'm doing fine.

Another woman, who does not receive her payments and took action to collect back payments, describes another incident of threat:

> Q: How do you feel about your daughter's interactions with her father?
>
> A: I feel ok in general, but I still have that fear that he might do something to her to get back at me, especially with this thing that I did through Family Services [seeking unpaid child support] . . . When I started proceedings, I got a very ugly phone call from him.

These real or possible threats often inhibit women from taking action to collect unpaid child support. This is very important. It points to the fact that if payments are contingent on the continued interaction between spouses, that maintain a power dynamic of female dependency, and on individual initiation of the process, then all of the emphasis on increasing state and legal mechanisms to collect payments will be ineffective. Such a system is biased against women on three counts:

1) Women are often reluctant to initiate the process in order to maintain harmony;

2) They are often threatened by ex-husbands regarding violence and the taking away of children;

3) They are penalized by lack of economic power to seek help.

These findings point to the need for an automatic collection process which is not dependent on individual initiation or on continued interaction between spouses. One woman in my sample dramatically illustrates why women will not use the systems in place as long as they are concerned with maintaining harmony with their ex-husbands or if they fear reprisal:

> Q: Have you taken action to collect payments?
>
> A: No, well it's hard to explain. We have a good relationship. I feel sorry for him. I'm also afraid of him because he came very close to killing me during our separation. He's got a lot of problems.

This woman expresses a dynamic not unlike that of battered women who accommodate to the threat of violence (Walker, 1979). Violence need not occur for the threat to be felt. The threat of legal action, wherein women are also less powerful in the court by virtue of less financial power and by their alienation from the system, coupled with the threat of physical violence, serve to maintain women's dependency on their ex-husbands and accommodation to low levels of support or to no support.

Thus, I want to conclude by summarizing these findings: Women appear to approach the legal bargaining process with a psychological disposition in which they are not abstracted emotionally from the bargaining process. This often results in "checking out" of the process and forgoing financial concerns, which will have severe consequences for their economic status after the divorce. The same process is apparent after divorce, with many women hesitant to seek unpaid child support payments by

using legal or state mechanisms for fear of disruting harmony with their ex-husband or out of accommodation to threat. This is reminiscent of a battered women's response of accommodating to coercive threats. Thus, systems for collecting child support will be underutilized by women if they rely on their initiation of the process or on continued interactions between spouses.

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